## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS BROWNSVILLE DIVISION

United States District Court Southern District of Texas ENTERED

NOV - 1 2006

ANTHONY TROIANI

Plaintiff,

V.

CIVIL ACTION NO. B-06-067

ALLSTATE INSURANCE COMPANY and ALLSTATE TEXAS LLOYD'S COMPANY

Defendants.

## **OPINION & ORDER**

BE IT REMEMBERED that on October \_\_\_\_\_\_, 2006, the Court **GRANTED** Plaintiff's Unopposed Motion for Leave to File First Amended Complaint and to Join Party. Dkt. No. 19.

Plaintiff asks the Court to grant him leave to file his first amended complaint so that he may clarify factual allegations that form the basis of his suit. *Id.* Pursuant to Federal Rule of Civil Procedure 15(a), leave to amend a party's pleading "shall be freely given when justice so requires." In the present case, Plaintiff's proposed First Amended Complaint supplements his original causes of action with more detailed background facts than those contained in Plaintiff's Original Petition. *Compare Dkt.* No. 1, Ex. 1, at 4–19 *with Dkt.* No. 19, Ex. 1. The facts in Plaintiff's proposed amended complaint do not pose new causes of action, and they will provide additional notices of the claims presented and guide the parties in the present litigation. Therefore, the Court finds that the interests of justice will be served by allowing Plaintiff to amend his Original Petition with the facts contained in his proposed First Amended Complaint.

Additionally, the amended complaint will join Christina Troiani, Plaintiff's wife, as a plaintiff in this case. Dkt. No. 19, at 1; Dkt No. 19, Ex. 1, at 1. Pursuant to Federal Rule

<sup>&</sup>lt;sup>1</sup> This case is presently before the Court after having been removed from state court. Accordingly, Plaintiff's original pleading was filed in state court and styled as "Plaintiff's Original Petition," and not as a complaint.

of Civil Procedure 19(a)(2)(i)—(ii), a person "whose joinder will not deprive the court of jurisdiction . . . shall be joined as a party in the action" if the person has an interest so similarly situated to the subject matter of the pending action that the person's absence will either impair her ability to protect that interest or subject parties to a substantial risk of inconsistent obligations in the future. In the present case, Christina Troiani, a resident of Texas, is a co-owner of the property and an insured under the insurance policy, which both form the basis of this suit. Dkt No. 19, Ex. 1, at 1. Accordingly, her interest in this case is such that her absence will either impede the protection of her interest or subject Defendants to a substantial risk of incurring inconsistent obligations if, in the future, she were to file suit based on her current interest. Because Christina Troiani is a resident of Texas, her joinder will not deprive the Court of subject matter jurisdiction over this action, which is based on diversity of citizenship. Dkt. No. 16, at 1. Therefore, the Court determines that joinder of Christina Troiani is proper under Federal Rule of Civil Procedure 19(a)(2)(i)—(ii).

Based on the foregoing, the Court **GRANTS** Plaintiff's Unopposed Motion for Leave to File First Amended Complaint and to Join Party. Dkt. No. 19. The Court notes that although the deadline for joinder of additional parties has passed, Plaintiff's motion for leave to file his amended complaint and to join Christina Troiani as a party was filed prior to the deadline for joinder. Dkt. No. 18; Dkt. No. 19. By granting Plaintiff's motion, the Court expressly allows Plaintiff to file his amended complaint, with Christina Troiani joined as a party, even though the deadline for joining additional parties has expired. Pursuant to Federal Rule of Civil Procedure 15(a), Defendants shall plead in response to Plaintiff's amended pleading within 10 days after service of same.

DONE at Brownsville, Texas, this day of October, 2006.

Hilda G. Tagle

United States District Judge